

(i) **Pass privileges, or retention of employer property.** The fact that an individual continues to receive free transportation, or is permitted to retain employer property, such as rule books and switch keys, is not indicative of the existence of an employment relation. However, definite action of the employer terminating free transportation privileges or requiring the surrender of employer property may be indicative of the termination of the employment relation.† (Secs. 1, 10, 50 Stat. 308, 314; 45 U.S.C., Sup., 228a, 228j)

204.4 Statutory provision of 1935 Act. "A person is in the employment relation to a carrier when furloughed or on leave of absence, and subject to call for service and ready and willing to serve, all in accordance with the established rules and practices usually in effect on railroads."† (Sec. 1 (d), 49 Stat. 968; 45 U.S.C., Sup. II, 215 (d))

204.5 Employment relation under the 1935 Act. The regulations relating to the existence or non-existence of an employment relation as defined in the 1937 Act (§§ 204.1, 204.2, 204.3) shall apply with equal force and effect to determinations regarding the existence or non-existence of an employment relation under the 1935 Act except that:

(a) Individuals absent on account of sickness or disability, as that term is used in such regulations, do not have an employment relation under the 1935 Act, and

(b) Individuals on leave of absence, as well as individuals on furlough, are required to be subject to call for service and ready and willing to serve in order to have an employment relation under the 1935 Act.† (Sec. 1, 49 Stat. 967, sec. 10, 50 Stat. 314; 45 U.S.C., Sup., 215, 228j)

PART 205—EMPLOYEE REPRESENTATIVE

Sec.

205.1 Statutory provision.

205.2 Definition of employee representative.

Sec.

205.3 Reports of employee representative.

205.4 Service of employee representative.

Section 205.1 Statutory provision. "The term 'employee representative' means any officer or official representative of a railway labor organization other than a labor organization included in the term 'employer' as defined in section 1 (a) who before or after the enactment date was in the service of an employer as defined in section 1 (a) and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act, as amended, and any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his office."† (Sec. 1 (b), 50 Stat. 308; 45 U.S.C., Sup., 228a (b))

†In §§ 205.1 to 205.4, inclusive, the numbers correspond with the respective section numbers in the Regulations under the Railroad Retirement Act of 1937, RRB, reissued Apr. 1, 1939, effective June 1, 1938, 4 F.R. 1482, 1483 (DI).

205.2 Definition of employee representative. An individual shall be an employee representative within the meaning of the Act (a) if he is an officer or official representative of a railway labor organization not an employer, as defined in the Act, and is duly authorized and designated to represent employees in accordance with the Railway Labor Act, as amended: Provided, however, That before or after August 29, 1935, and before the time in question he must have been in the service of an employer; or (b) if he is regularly assigned to or regularly employed by an employee representative as described in (a) above in connection with the duties of the office of such employee representative, irrespective of whether he possesses the qualifications described in (a).† (Secs. 1, 10, 50 Stat. 308, 314; 45 U.S.C., Sup., 228a, 228j)

205.3 Reports of employee representatives. (See § 250.5.)†

205.4 Service of employee representatives. (See § 220.3 (i).)†

PART 208—ELIGIBILITY FOR AN ANNUITY

Sec.	Sec.
208.1 Statutory provision.	208.25 Proof of continuance of disability.
208.2 Employee status.	208.26 No proof of disability after age 65.
208.3 Annuity based on age 65.	208.27 When disability annuity ceases.
208.5 Annuity based on age 60 to 65 and service.	208.28 Cessation of disability annuity not prejudicial to further eligibility.
208.10 Annuity based on age 60 to 65 and on disability.	208.29 Disability annuitant to notify of recovery or performance of service.
208.15 Annuity based on service and disability.	
208.16 Age of applicant; how established.	
208.20 Establishment of total and permanent disability for regular employment for hire.	

Section 208.1 Statutory provision. “(a) The following-described individuals, if they shall have been employees on or after the enactment date, shall, subject to the conditions set forth in subsections (b), (c), and (d), be eligible for annuities after they shall have ceased to render compensated service to any person, whether or not an employer as defined in section 1 (a) (but with the right to engage in other employment to the extent not prohibited by subsection (d)):

“1. Individuals who on or after the enactment date shall be 65 years of age or over.

“2. Individuals who on or after the enactment date shall be 60 years of age or over and (a) either have completed 30 years of service or (b) have become totally and permanently disabled for regular employment for hire, but the annuity of such individuals shall be reduced one one-hundred-and-eightieth for each calendar month that they are under age 65 when the annuity begins to accrue.

“3. Individuals, without regard to age, who on or after the enactment date are totally and permanently disabled for regular employment for hire and shall have completed 30 years of service.

“Such satisfactory proof of the permanent total disability and of the continuance of such disability until age 65 shall be made from

†For source citation, see note to § 205.1.